

TEXT AMENDMENT STAFF REPORT



Hearing Date: NA

Case File #: TA-16-14

General Description: Amend Article 7.09 to clarify the permitted location of fences and walls on single family residences.

☒ Town Initiated

☐ Citizen Initiated

Applicant(s): Town of Sunset Beach

APPLICATION OVERVIEW:

The Sunset Beach Planning & Inspections Department has initiated an application, at the direction of Town staff, to insert new text in Article 7.09(B) to clarify that fences and walls, for single-family residences, may be placed up to the property line.

STAFF COMMENTARY

In light of a recent application, staff is seeking clarity on the location of fences and walls for beach and mainland residential zoning districts. Typically, fences are allowed to be placed up to or on a lot line. However, the UDO includes conflicting language regarding the location of such. Staff is proposing to add text that expressly permits fences and walls to be placed on the property line. This amendment would also conclude that retaining walls may be placed on the property line. In discussion with the Town's consulting engineer, Compass Pointe Engineering, it was determined that the placement of retaining walls on the property line should pose no threat to health, safety, and welfare. Furthermore, when a retaining wall is to be constructed that exceeds four feet (4') in height, it must be accompanied by certification from licensed structural engineer.

In the past, walls and fences have been permitted on the property line though no language exists stating such. Again, the UDO is ambiguous on the location.

Note: This amendment specifically addresses the location of fences and walls for single-family residential development and does not address the location of fences for subdivision development.

[Update 9-6-2016]: The amendment has been clarified to include a placement of fences/walls as a condition.

[Update 9-29-2016]: Ownership/maintenance responsibility shall be that of the installer. A permit is required for installation of a fence and therefore a record of ownership is established should ownership be questioned. Staff will encourage applicants wishing to install fences/walls to inform adjacent property owners prior to construction.

PROPOSAL

The proposed amendment is attached and subsequently amended.

Action:

- Recommend Approval (A) X Recommend Denial (B) _____

Commentary:

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TOWN COUNCIL SUMMARY

Action:

(A) _____ The Town Council hereby approves the proposed amendment to the Unified Development Ordinance and finds that it is not (i) addressed in the 2010 Town of Sunset Beach CAMA Land Use Plan, but finds that it is in the public interest because clarification should be provided to Town regulations in order to allow for fences and walls on the property line in order to protect the health, safety, and welfare of citizens.

(B) _____ The Town Council hereby denies the proposed amendment to the Unified Development Ordinance and finds that (i) it is not addressed in the Town's comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) and/or (ii) it is not in the public interests for the following reasons:
_____.

Approved _____ Denied _____

(For _____ Against _____ Abstained _____)

Commentary:

SECTION 7.09 PRIVACY FENCES

(A) **Subdivisions.** A privacy **fence** for a single-family **subdivision** may be allowed provided the following requirements are met:

- (1) The **fence** shall extend along and be set back at least three (3) feet from the boundary of the **subdivision** common with several other zoning districts.
- (2) Any height adjustments required by the terrain shall be made by vertical steps.
- (3) Both sides of the **fence** shall be equal in construction and appearance.
- (4) The **fence** shall be uniform in design and constructed with masonry pillars and fencing of painted, treated wood. The top of the wood **fence** shall be not more than six (6) feet above the natural elevation of the ground. The top of the pillars shall extend not more than six (6) inches above the wood **fence**, except where height adjustments are made.
- (5) The design and construction details shall be reviewed and approved by the **Planning Board** prior to construction.
- (6) Maintenance responsibility for the **fence** with **easement** rights shall be specified in the deed covenants of the **subdivision**.

(B) Single-Family Residential. In all beach residential zoning districts, a **fence** or wall may be constructed not to exceed four (4) feet in height from natural **ground level**. In the BR-1 district, **fences** and walls cannot extend beyond more than one hundred fifty (150) feet from the property line **abutting** the right-of-way of Main Street. In all mainland residential zoning districts, a **fence** or wall may be constructed not to exceed six (6) feet in height from natural **ground level**. **A fence or wall may be constructed on the property line subject to the** following conditions ~~must be met~~ in all **zoning** districts:

- (1) The **fence** or wall does not restrict the **ground level** view of any **adjacent property** facing the ocean, waterway, marsh, lakes, or **golf course**.
- (2) Except as set forth in subdivision (4) below, **fences** or walls are limited to **rear** and **side yards**; however, **fences** or walls cannot be located in a **side yard abutting a street** right-of-way on a **corner lot**. Exception: In a **side yard abutting a street** right-of-way on a **corner lot**, open **fences** are allowed in the buildable area of the **lot**, but are limited to four (4) feet in height and shall be at least thirty-five percent (35%) open.
- (3) Side **fences** or walls shall be placed a minimum of five (5) feet behind the front floor-print of the house. However, if circumstances exist related to asymmetrical lot lines, lot recombination, or unusual property line configuration relative to the location of the existing primary structure, the Planning Board may modify this standard upon review and approval of a sketch plan. When a modification is requested, all property owners

immediately adjacent to the proposed fence shall be notified of the meeting in which the request will be heard by regular mail. The Planning Board should consider public safety, interference with sight visibility at intersections, harmony with the surrounding properties, and maintaining the spirit of this requirement when making any modification. Any fence modification shall not permit encroachment into the required front yard setback.

(4) A **fence** is permitted within the **front yard** when the distance from the front of the house to the front property line is a minimum of two hundred (200) feet. The **fence** may not encroach into the fifty (50) foot **front yard setback**.

(5) Construction above ground or berm level shall be brick, decorative cement block, stucco, decorative wrought iron, cedar, redwood or treated wood (excluding any type of plywood or lattice sheets), decorative vinyl, chain link, or any combination.

(6) Both sides of a **fence** or wall must be equal in construction and appearance or the good side must be face outward.

(7) Finials are not counted into the height of the **fence**; however, finials cannot exceed twelve inches (12") in height. Finials are the crowning ornaments on a **fence**.